

Exemptions (all individuals are entitled to at least one exemption.)	
44. Multiply \$1,980 by the number of exemptions on line 6d and enter result here ... 44.	
45. Subtract line 44 from line 43 and enter the result here. If zero or less, enter zero. This is your taxable income. 45.	
46. Tax from the tax table on page 23. If line 45 is zero, enter zero 46.	
47. 1% capital gains tax credit 47.	
48. Subtract line 47 from line 46 and enter the result here, but not less than zero. This is your resident tax after capital gains tax credit. 48.	
48a. Non-resident, part-year resident tax after capital gains tax credit. Enter here the amount from Form 2, Schedule IV, line 21, but not less than zero. 48a.	
49. Tax on lump-sum distributions. See instructions. Attach federal Form 4972 49.	
50. Add lines 48 or 48a and 49 and enter the result here. This is your total tax. 50.	
51. Nonrefundable single-year credits from Form 2, Schedule V, line 13 51.	
52. Nonrefundable carryover credits from Form 2, Schedule V, line 26 52.	
53. Add lines 51 and 52 and enter the result here but do not enter an amount larger than the amount on line 50. This is your total nonrefundable credits. ... 53.	

Sub-Chapter 5

Individual - Capital Gain Credit

42.4.501 DEFINITIONS The following definitions apply to terms found in this sub-chapter:

(1) "Net capital gain" means an individual's net capital gain included in Montana adjusted gross income as shown on their Montana individual income tax return.

(2) "Tax year 2005" means the taxpayer's tax year beginning after December 31, 2004.

(3) "Tax year 2006" means the taxpayer's tax year beginning after December 31, 2005. (History: Sec. 15-30-303, MCA; IMP, Sec. 15-30-103, 15-30-105, and 15-30-183, MCA; NEW, 2004 MAR p. 2600, Eff. 10/22/04.)

42.4.502 CAPITAL GAIN CREDIT (1) For tax years 2005 and 2006, an individual may claim a credit against their Montana individual income tax of up to 1% of their net capital gain. For tax years beginning after December 31, 2006, an individual may claim a credit against their Montana individual income tax of up to 2% of their net capital gain. The credit is nonrefundable and may not be carried back or carried forward to any other tax year. The credit must be applied before any other credit.

(2) **A nonresident or a part-year resident must apply the credit to Montana tax computed as if he or she were a resident during the entire tax year.**

(3) Married taxpayers filing separately must compute and report their capital gains and losses as provided in ARM 42.15.423.

(4) The following are examples of how the credit is applied:

(a) Example: John and Barbara file a joint 2005 federal income tax return reporting \$5,000 of net capital gain. John's income consists of \$50,000 in wages and \$8,000 of net capital gain. Barbara's income consists of \$35,000 in wages and \$3,000 of net capital loss. If they file separately rather than jointly for Montana, they must separately compute and report their capital gains and losses as provided in ARM 42.15.423. John may claim a capital gain credit of up to \$80 against his Montana income tax. Barbara is not entitled to claim any credit against her tax.

	<u>Federal Return</u>	<u>Montana Return</u>	
		<u>Column A</u>	<u>Column B</u>
Wages	\$85,000	\$50,000	\$35,000
Sch. D capital gain (loss)	\$ 5,000	\$ 8,000	(\$ 3,000)
Fed. adjusted gross income	\$90,000	\$58,000	\$32,000
Montana adjustment for capital loss limit			\$ 1,500
Montana adjusted gross income	\$91,000	\$58,000	\$33,500
Capital loss carryover			(\$ 1,500)

(b) Example: For tax year 2006, John, a single Montana resident with \$1,300 of net capital gain, is entitled to an elderly homeowner credit of \$500. His Montana tax, before credits, is \$400. He may claim the \$13 capital gain credit before determining the amount of his refundable elderly homeowner tax credit.

Montana tax before credits	\$ 400
Capital gain credit	<u>(\$ 13)</u>
Montana tax after capital gain credit	\$ 387
Elderly homeowner credit	<u>(\$ 500)</u>
Refund	\$ 113

(c) Example: For tax year 2006, Mary has wages of \$80,000 and has \$50,000 of net capital gain, \$30,000 of which was realized from an investment in a small business investment corporation that is exempt from Montana income tax as provided in 15-33-106, MCA. Mary is entitled to a capital gain credit of \$200, 1% of the \$20,000 net capital gain included in her Montana adjusted gross income.

(d) Example: For tax year 2006, Patrick, a nonresident, has wages of \$50,000, net capital gain of \$8,000, and a distributive share of \$10,000 of ordinary income from an S corporation. The \$10,000 ordinary income from the S corporation is Montana source income. The wages and capital gain are not Montana source income. Assume that his Montana tax, computed as if he were a resident, on his taxable income after Montana exemptions, exclusions, and deductions, is \$3,000. The capital gain credit of \$80 is applied against the tax determined as if he were a resident.

Montana tax determined as if resident	\$3,000
Capital gain credit	(\$ 80)
Tax to which nonresident ratio applied	\$2,920
Ratio of Montana source income to income from all sources (\$10,000/\$68,000)	.147
Montana tax (\$2,920 x .147)	\$ 429

(History: Sec. 15-30-303, MCA; IMP, Sec. 15-30-103, 15-30-105, and 15-30-183, MCA; NEW, 2004 MAR p. 2600, Eff. 10/22/04.)